

**APR 12 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MUNDO GONZALEZ, a/k/a Reymundo  
Gonzalez,

Defendant - Appellant.

No. 04-50611

D.C. No. CR-04-00645-JFW-02

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
John F. Walter, District Judge, Presiding

Submitted April 5, 2006\*\*

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Mundo Gonzalez appeals from the sentence imposed after his guilty plea conviction for conspiracy to distribute and to possess with intent to distribute, and

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

possession with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846.

Because Gonzalez was sentenced under the then-mandatory Sentencing Guidelines, and we cannot reliably determine from the record whether the sentence imposed would have been materially different had the district court known that the Guidelines were advisory, we remand to the sentencing court to answer that question, and to proceed pursuant to *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc). *See United States v. Moreno-Hernandez*, 419 F.3d 906, 916 (9th Cir. 2005) (extending *Ameline*'s limited remand procedure to cases involving non-constitutional error under *United States v. Booker*, 543 U.S. 220 (2005)).

**REMANDED.**